

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? No

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?
No

GHANCHI YUSUF MOHAMMED

Versus

STATE OF GUJARAT

Appearance:

MR JAYANT PATEL for Petitioners

MR TH SOMPURA,LD. GOVT.PLEADER for Respondents

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 15/01/97

ORAL JUDGEMENT

Rule. Mr. T.H.Sompura, Ld. Govt. Counsel waives
service of the rule.

The present petition in my opinion requires a
partial recognition.

The petitioners were asking for the regularisation of their possession in respect of certain lands. In fact the petitioners had approached the Collector with a necessary application in this respect. The Collector, Junagadh, under the orders dated June 29, 1994, was pleased to reject the prayer of the petitioners. This has been done without affording a reasonable opportunity of being heard to the petitioners. The entire matter came to be decided and dismissed, the base being the application or the prayer for the regularisation itself. The orders were carried in appeal before the Government, but that too unsuccessfully. The appeal filed by the petitioners came to be dismissed by the Secretary, Appeals (Revenue) under the orders dated October 18, 1996. These orders are under challenge before me under which the earlier orders passed by Collector, Junagadh, came to be confirmed.

The main contention coming from learned counsel Mr. Jayant Patel for the petitioners is that, at the initial stage when the matter came to be decided by Collector, Junagadh, no opportunity of being heard was given to the petitioners and that, therefore, the initiation and the completion of the whole proceedings were behind the back of the petitioners. Learned counsel urges that, this is in violation of the principles of natural justice and that, if the necessary opportunity were to be given to the petitioners, they could have appeared before the Collector, Junagadh, and could have presented the case with a great efficacy. According to learned counsel, this contention was also raised at the appellate stage but has not been countenanced.

It appears upon hearing learned counsel for the petitioners that, when the proceedings came to be completed and decided by the Collector, Junagadh, necessary opportunity of being heard was not given to the petitioners. In my view, therefore, the present petition requires a partial recognition and after setting aside both the orders, the matter requires to be retransmitted to the Collector, Junagadh, for a fresh decision, according to law and on merits, after affording a reasonable opportunity of being heard to the petitioners. I order accordingly. The net effect is that, the said orders are quashed and the matter stands transmitted to Collector, Junagadh, who shall decide it as per my observations made hereinabove. Rule is made absolute to the said extent only.

At present the petitioners stand protected. The

same protection shall be available to them till the matter is decided by the Collector, and for a further period of one week thereafter also, so that in case the orders are adverse to the petitioners, they can have a resort to the appropriate remedy before the appropriate forum. D.S. permitted.
